

**REMARKS/ARGUMENTS**

Applicants acknowledge the withdrawal of claims 47, 49 and 50. The pending claims are 1-3, 14, 16-18, 22-24, 32-35, 48 and 51.

**Rejection under 35 U.S.C. § 102(b)**

The Examiner has rejected claims 1-3, 14, 16-18, 22-24, 48 and 51 under 35 U.S.C. § 102 (b) as being anticipated by Del Val et al. MPEP 706.02(a)(II)(A) states “If the publication or issue date of the reference is more than 1 year prior to the effective filing date of the application ( MPEP § 706.02), the reference qualifies as prior art under 35 U.S.C. 102(b).” Applicants respectfully disagree with the Examiner’s rejection because, as discussed below, applicants assert that Del Val et al. reference was not published prior to February 4, 2001. However, in order to facilitate prosecution in this case applicants have amended the pending claims, without prejudice or disclaimer, to recite the SEQ ID NOs of the peptides disclosed in the provisional application to which the present application claims priority. Thus, the pending claims are entitled to a priority date of February 5, 2001, which means that the Del Val et al. reference is not available as 102(b) prior art. Therefore applicants respectfully request that the Examiner withdraw the rejection of claims 1-3, 14, 16-18, 22-24, 48 and 51 under 35 U.S.C. § 102(b).

**Rejection under 35 U.S.C. § 102(a)**

The Examiner has rejected claims 1-3, 14, 16-18, 22-24, 48 and 51 as being anticipated by Del Val et al. under 35 U.S.C. § 102(a).

Applicants respectfully traverse on three grounds: (i) the Del Val et al. reference is a publication of the inventors and therefore cannot qualify under 102(a) as described in a publication before the invention by the inventors because the inventors could not have published their invention before having invented it; (ii) the Del Val et al. reference is not available under 102(a) because it published after the priority date of the present claims; and (iii) the Del Val et al. reference is not

available as a 102(a) reference because the inventors invented the presently claimed invention prior to its publication.

(i) *Del Val is a publication of the inventors*

First, as discussed in the previous response, the Del Val et al. reference is a publication of the inventors. The Examiner pointed out in the final Office Action that the previously submitted 1.132 declaration was insufficient because it did not describe the role of Suzanne Teuber, who was an author of the publication but not an inventor of the application. Applicants would like to apologize for this omission and address this point here.

In order for a printed publication to anticipate under 35 U.S.C. § 102(a), the publication must describe the work of *another* before the Applicant's invention. See 35 U.S.C. 102(a). In particular, MPEP 2132.01 states "[a]n Applicant's disclosure of his or her own work within the year before the application filing date cannot be used against him or her under 35 U.S.C. § 102(a)". Accordingly, Applicants enclose a second declaration of Dr. Bob Buchanan, the senior author of the Del Val reference and an inventor of the instant application. Dr. Buchanan declares that a co-author of the Del Val reference, Suzanne Teuber, who was not named as an inventor in the instant application, did not make any original contribution to the work described in the Del Val abstract as related to the claims in the instant application. Thus, the Del Val reference describes the inventive work of only the inventors listed in the instant application. For this reason, the Del Val reference does not qualify as prior art under 102(a) to anticipate any of the claims of the instant application because it does not disclose the work of *another*. Accordingly, Applicants respectfully request that this ground for rejection be withdrawn.

(ii) *Del Val published after the priority date of the present claims*

MPEP 706.02(a) states "The examiner must determine the issue or publication date of the reference so that a proper comparison between the application and reference dates can be made. A magazine is effective as a printed publication under 35 U.S.C. 102(b) as of the date it reached the addressee and not the date it was placed in the mail." MPEP 2128 states "A reference is proven to

be a "printed publication" upon a satisfactory showing that such document has been disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art, exercising reasonable diligence, can locate it."

Applicants respectfully submit that the Del Val et al. reference was not publicly available prior to the February 5, 2001 filing date of the provisional patent application to which the present claims are entitled to claim priority. The Examiner suggested that either one of two things could be provided to establish when the abstract book was publicly available: "...provide a letter from the publisher of the abstract book indicating when the abstract was first made publicly available, or a declaration by Applicant, since they received the Abstract book, as to when they first received it."

The Applicant does not have a record as to the exact date of receipt of the abstract book. Applicants contacted the publisher to determine the date of shipping of this abstract book, but the publisher did not have record of this as it was over three years ago. However, the publisher did state that their policy is to ship all copies of a particular issue on one day, and that all copies of this issue would have been shipped from within the United States. Applicants enclose a declaration from Swathi Rao stating the aforementioned policy of the publisher, Elsevier.

As evidence of the date of accessibility of the cited reference, Applicants enclose date stamped copies of the abstract book from the Stanford, UC Berkeley, and UC Davis libraries. Stanford Library received the abstract book on February 21<sup>st</sup>, 2001. UC Berkeley Library received it on March 6<sup>th</sup>, 2001, and UC Davis received it on March 16<sup>th</sup>, 2001. Applicants contend that since all publicly available copies of the abstract book were shipped from the publisher on one day, the earliest stamped date of receipt, February 21<sup>st</sup>, 2001 at Stanford Library, is the earliest date of public availability. This date is still more than two weeks later than the Applicant's February 5th, 2001 priority date. Thus, the Del Val reference does not qualify as 102(a) prior art to anticipate any of the claims of the instant application. Applicants therefore respectfully request this ground for rejection be withdrawn.

(iii) *The inventors invented the present claims prior to the publication of Del Val*

Even if the Del Val et al. reference was publicly available as of February 1, 2001, it is still not available as 102(a) prior art as it was not “described in a printed publication in this or a foreign country, before invention thereof by the applicant for patent.” Provided herewith are three declarations, one from each of the inventors, asserting that they invented the presently claimed invention prior to February 1, 2001. As evidence thereof, each has submitted a draft paper describing the present invention prepared prior to February 1, 2001.

Therefore applicants respectfully request that the Examiner withdraw the rejection of claims 1-3, 14, 16-18, 22-24, 48 and 51 based upon 35 U.S.C. § 102(a)

#### **Rejection under 35 U.S.C. § 103(a)**

As a preliminary matter, Applicants thank the Examiner for once again advising, in Section 6 of the Office Action, the Applicants of their obligation under 37 C.F.R. § 1.56 to point out any instances of lack of common ownership with respect to co-pending applications in order for the Examiner to consider the applicability of 35 U.S.C. § 103(c) and potential 35 U.S.C. 102(e), (f), or (g) prior art under 35 U.S.C. § 103(a). Applicants again wish to state that all co-pending applications are commonly owned.

The Examiner has rejected claims 32-35 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Del Val et al., in view of U.S. Patent No. 4,281,061. Applicants respectfully traverse this rejection.

35 U.S.C. § 103(a) states: “A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” As shown above, the Del Val reference does not qualify as 102(b) prior art or as 102(a) prior art, and is therefore not available for use in a 103(a) rejection. Applicants therefore respectfully request that this ground for rejection be withdrawn.

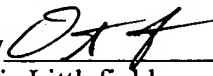
**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conversation would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 416272000200. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: February 23, 2006

Respectfully submitted,

By   
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VOLUME 107 No.2 FEBRUARY 2001

# THE JOURNAL OF Allergy AND Clinical Immunology

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*Supported by an unrestricted educational grant from*



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OFFICIAL JOURNAL OF

**AAAAI**

AMERICAN ACADEMY OF ALLERGY  
ASTHMA & IMMUNOLOGY

Published Monthly by

**Mosby**

ISSN 0091-6749

The Library - UC Berkeley  
Received on: 03-06-01  
The Journal of allergy and  
clinical immunology :  
official organ of American  
Academy of Allergy

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**Frequency: Biologic Effect: Frequency Category 2.** *Stochastics* studies in the mouse panel at 45 and 135 mg/kg, respectively (approximately 750 and 1275 mg/m<sup>2</sup> based on body surface area) showed statistically significant increases in the incidence of nasal squamous metaplasia and adenoma.

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## S318 Abstracts

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VOLUME**1036** A Comparison of Cutaneous, Conjunctival and Bronchial Reactivity to P Prateuse

Gideon Lack, Graham Roberts, Caitriona Hurley St Mary's Hospital, London, UK

**OBJECTIVE:** To determine whether there is a relationship between cutaneous, conjunctival and bronchial sensitivities to Phleum pratense (timothy grass) in individual children and teenagers with seasonal allergic asthma and rhinitis.

**METHODS:** 39 subjects (27 boys) aged 3 to 16 (average 11.9) years were assessed in this study. Specific IgE (Pharmacia Cap) to P prateuse were assayed in all subjects. Skin prick testing was performed in 38 subjects with half-log, increasing concentrations of P prateuse (ALK); the concentration giving a 3mm weal was determined by interpolation. Conjunctival testing was performed in all subjects using half-log, increasing concentrations of P prateuse; the concentration giving a score of 5 on a standardized, validated scoring system recorded by one observer was determined by interpolation. Bronchial challenges with P prateuse was performed in 25 subjects with half-log, increasing concentrations delivered by a Parijet nebuliser and lung function measured by Masterscreen spirometer (Jaeger); the PC20 was calculated. A comparison between the factors was made using correlation coefficients; the Bonferroni transformation was used to account for the multiple comparisons. Calculations were performed using Stat 6.

**RESULTS:** A significant correlation was found between specific IgE to P prateuse and cutaneous sensitivity. However, no other significant relationships were found between specific IgE levels, cutaneous reactivity, conjunctival sensitivity or bronchial reactivity.

**CONCLUSIONS:** The data presented demonstrate that the sensitivities of different organs to P prateuse are independent of each other. This agrees with the different patterns of clinical symptoms seen in children with grass pollen allergy.

Comparison between specific IgE and end-organ sensitivities

	Specific IgE	Cutaneous	Conjunctival	Bronchial
Specific IgE	-	-	-	-
Cutaneous	-0.568 (p=0.03)*	-	-	-
Conjunctival	-0.251 (p=1)	0.285 (p=0.40)	-	-
Bronchial	-0.403 (p=1)	0.208 (p=1)	0.138 (p=1)	-

\*Cutaneous reactivity and specific IgE both logarithmically transformed. P values modified using the Bonferroni transformation to take into account the multiple comparisons.

**1037** Comparison of the Molecular and Immunological Properties of Natural and Recombinant Art v 1, the Major Allergen of *Artemisia Vulgaris* Pollen

Martin Himly\*, Renate Steiner\*, Ronald Van Ree\*, Christof Ebner\*, Fatima Ferreira\* \*University of Salzburg, Salzburg, Austria †University of Vienna, Vienna, Austria ‡Central Laboratory of the Netherlands Blood Transfusion Service, Amsterdam, Netherlands

Pollen of mugwort (*Artemisia vulgaris*) represent one of the main causes for type I allergy in late summer and fall in Europe. Mugwort, a member of the Asteraceae or Compositae plant family, pollinates by wind and is widely distributed throughout the temperate climate regions of Central Europe. The major allergen of mugwort pollen has been determined by immunoblots with a large collection of sera from mugwort pollen-sensitized patients. This protein, which is recognized by 95 % of mugwort-allergic patients, was designated Art v 1. When subjected to SDS-PAGE it appears as a heterogeneous band in the MW range of 24 to 28 kDa. Recombinant Art v 1, in contrast, migrates at approximately 17 to 18 kDa, although the theoretical MW derived from the polypeptide chain is 10.8 kDa. Both natural and recombinant Art v 1 have been purified to homogeneity. In this study we report the molecular and immunological properties of purified recombinant Art v 1 in comparison to its natural counterpart. Natural Art v 1 was found to contain carbohydrate as demonstrated by positive PAS-staining. Mass measurements by Matrix-assisted laser desorption/ionization-mass

spectrometry (MALDI-MS) were performed. By these means the molecular mass of purified recombinant Art v 1 was determined to be 10800, whereas in the case of purified natural Art v 1 two rather broad mass peaks with maxima at about 13400 and 15600 were detected. These differences in MW were assigned to the sugar content, which also turned out to protect the polypeptide chain from proteolytic digest. Binding experiments with plant lectins were performed in order to characterize the carbohydrate moieties. However, no common type of N-linked glycosylation could be detected. ELISA experiments with a panel of patients' sera revealed two distinct binding patterns of IgE antibodies: one class of sera reacted similarly with natural and recombinant Art v 1, whereas the other class showed extremely weak or no reactivity to recombinant in comparison to the natural allergen. In inhibition ELISA experiments, natural Art v 1 totally abolished the interaction of IgE with its recombinant counterpart, whereas recombinant Art v 1 gave only 50 % inhibition of IgE-binding to the natural allergen. Purified natural and recombinant Art v 1 were also subjected to periodate treatment and reduction/alkylation procedures. By subsequently performed immunoblotting and ELISA inhibition experiments with patients' sera more conclusions on the nature of the present IgE epitopes of natural and recombinant Art v 1 could be drawn. Taken together the results of this study show a high impact of glycosylation on the allergenicity of the major mugwort pollen allergen Art v 1.

**1038** A Major New Allergen From Ragweed Pollen

Greg Del Val\*, Joshua H Wong\*, Suzanne Teuber\*, Oscar L Frick\*, Bob B Buchanan\* \*UC Berkeley, Berkeley, CA †UC Davis, Davis, CA ‡UC San Francisco, San Francisco, CA

Ragweed pollen has a lipid layer on the surface, which has been extracted and routinely discarded for more than 50 years in order to produce allergy test preparations. The symptoms in pollen allergy, that appear after a few minutes, are believed to be due to allergens located on the pollen surface, which includes the lipid layer. As it has been demonstrated with defatted ragweed pollen (Marsh DG et al JACI 1981, 67: 206-222), there are important extracellular allergens released in a short time period - e.g. Amb a 5 in 16 minutes, versus the major allergens described, Amb a 1 and 2, in 12-24 hours. However, these authors and others have not reported significant differences in the first-released allergens from the complete and defatted preparations. In our work, we show a difference in the population of the first-released allergens from complete and defatted pollen. We have identified and characterized an allergen located in the lipid fraction that is discarded during the defatting process. The allergen, which appears to be a major pollen glycoprotein, has a molecular mass of 30 kDa and contains at least one disulfide bond. Amino acid sequencing data indicate that the protein has not been previously described from pollen or other sources. Finally, after performing IgE-immunoblots with 25 sera of ragweed-sensitive patients, we have found that the 30 kDa protein is recognized by all of them, thus qualifying it as a major allergen that is perhaps missed in current screens. Furthermore, our results are reinforced by the fact that dogs sensitized to ragweed also uniformly recognize the allergen. These findings suggest that the lipid fraction containing the 30 kDa allergen and possibly others should be included in allergy testing and immunotherapy regimes.

**1039** Seasonal Variation in the Indoor Mold Aerosols Among Inner-city Homes

H James Wedner, Anupma Dhill, Roosevelt Peabody Washington University School of Medicine, St Louis, MO

**INTRODUCTION:** Sensitization to the indoor mold aerosols may play a significant role in the increasing prevalence of asthma among inner-city dwelling children and adults. To evaluate indoor mold contamination, we have used volumetric spore sampling for both total and viable spores in 40 homes in the East St. Louis, IL (ESL) area.

**METHODS:** At least one asthmatic patient (usually 2 or more) resided in each of the homes selected. Sampling was carried out throughout the year using a Burkard Personal Volumetric spore trap and viable spore trap. Viable spores were collected onto MEA plates. The kitchen, TV room and

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VOLUME 107 No.2 FEBRUARY 2001

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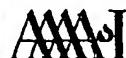
ISSN 0091-6749



THE JOURNAL OF  
Allergy AND Clinical  
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VOLUME 107

NUMBER 2



OFFICIAL JOURNAL OF THE AMERICAN ACADEMY OF ALLERGY, ASTHMA AND IMMUNOLOGY

Meeting Information	5A
Abstracts	
Saturday, March 17	S1
Sunday, March 18	S70
Monday, March 19	S149
Tuesday, March 20	S244
Scientific Program	S331
Alphabetic index by abstract authors	S375
Alphabetic index by subject	S395

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*The Journal of Allergy and Clinical Immunology* (ISSN 0091-6749) is published monthly (12 issues per year) by Mosby. Corporate and editorial offices: 11830 Westline Industrial Dr, St Louis, MO 63146-3318. Accounting and circulation offices: Mosby, 6277 Sea Harbor Dr, Orlando, FL 32887-4800. Periodicals postage paid at Orlando, FL 32862 and at additional mailing offices. 2001 subscription rates: domestic, \$172.00 for individuals (\$85.00 for students), \$350.00 for institutions. Postmaster: Send address changes to *The Journal of Allergy and Clinical Immunology*, Mosby, Periodicals Department, 6277 Sea Harbor Dr, Orlando, FL 32887-4800.

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March 16-March 21, 2001**

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**1036** A Comparison of Cutaneous, Conjunctival and Bronchial Reactivity to P Pratense

Gideon Lack, Graham Roberts, Caitriona Hurley. St Mary's Hospital, London, UK

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Gideon Lack, Graham Roberts, Cairiona Hurley St Mary's Hospital, London, UK

**OBJECTIVE:** To determine whether there is a relationship between cutaneous, conjunctival and bronchial sensitivities to Phleum pratense (timothy grass) in individual children and teenagers with seasonal allergic asthma and rhinitis.

**METHODS:** 39 subjects (27 boys) aged 3 to 16 (average 11.9) years were assessed in this study. Specific IgE (Pharmacia Cap) to P pratense were assayed in all subjects. Skin prick testing was performed in 38 subjects with half-log, increasing concentrations of P pratense (ALK); the concentration giving a 3mm weal was determined by interpolation. Conjunctival testing was performed in all subjects using half-log, increasing concentrations of P pratense; the concentration giving a score of 5 on a standardised, validated scoring system recorded by one observer was determined by interpolation. Bronchial challenges with P pratense was performed in 25 subjects with half-log, increasing concentrations delivered by a Parijet nebuliser and lung function measured by Masterscreen spirometer (Jaeger); the PC20 was calculated. A comparison between the factors was made using correlation coefficients; the Bonferroni transformation was used to account for the multiple comparisons. Calculations were performed using Stat 6.

**RESULTS:** A significant correlation was found between specific IgE to P pratense and cutaneous sensitivity. However, no other significant relationships were found between specific IgE levels, cutaneous reactivity, conjunctival sensitivity or bronchial reactivity.

**CONCLUSIONS:** The data presented demonstrate that the sensitivities of different organs to P pratense are independent of each other. This agrees with the different patterns of clinical symptoms seen in children with grass pollen allergy.

Comparison between specific IgE and end-organ sensitivities

	Specific IgE	Cutaneous	Conjunctival	Bronchial
Specific IgE	-	-	-	-
Cutaneous	-0.568 (p=0.03)*	-	-	-
Conjunctival	-0.231 (p=1)	0.283 (p=0.40)	-	-
Bronchial	-0.403 (p=1)	0.208 (p=1)	0.138 (p=1)	-

\*Cutaneous sensitivity and specific IgE both logarithmically transformed. P values modified using the Bonferroni transformation to take into account the multiple comparisons.

**1037** Comparison of the Molecular and Immunological Properties of Natural and Recombinant Art v 1, the Major Allergen of Artemisia Vulgaris Pollen

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Pollen of mugwort (*Artemisia vulgaris*) represent one of the main causes for type I allergy in late summer and fall in Europe. Mugwort, a member of the Asteraceae or Compositae plant family, pollinates by wind and is widely distributed throughout the temperate climate regions of Central Europe. The major allergen of mugwort pollen has been determined by immunoassays with a large collection of sera from mugwort pollen-sensitized patients. This protein, which is recognized by 95 % of mugwort-allergic patients, was designated Art v 1. When subjected to SDS-PAGE it appears as a heterogeneous band in the MW range of 24 to 28 kDa. Recombinant Art v 1, in contrast, migrates at approximately 17 to 18 kDa, although the theoretical MW derived from the polypeptide chain is 10.8 kDa. Both natural and recombinant Art v 1 have been purified to homogeneity. In this study we report the molecular and immunological properties of purified recombinant Art v 1 in comparison to its natural counterpart. Natural Art v 1 was found to contain carbohydrate as demonstrated by positive PAS-staining. Mass measurements by Matrix-assisted laser desorption/ionization-mass

spectrometry (MALDI-MS) were performed. By these means the molecular mass of purified recombinant Art v 1 was determined to be 10800, whereas in the case of purified natural Art v 1 two rather broad mass peaks with maxima at about 13400 and 15600 were detected. These differences in MW were assigned to the sugar content, which also turned out to protect the polypeptide chain from proteolytic digest. Binding experiments with plant lectins were performed in order to characterize the carbohydrate moieties. However, no common type of N-linked glycosylation could be detected. ELISA experiments with a panel of patients' sera revealed two distinct binding patterns of IgE antibodies: one class of sera reacted similarly with natural and recombinant Art v 1, whereas the other class showed extremely weak or no reactivity to recombinant in comparison to the natural allergen. In inhibition ELISA experiments, natural Art v 1 totally abolished the interaction of IgE with its recombinant counterpart, whereas recombinant Art v 1 gave only 50 % inhibition of IgE-binding to the natural allergen. Purified natural and recombinant Art v 1 were also subjected to periodate treatment and reduction/alkylation procedures. By subsequently performed immunoblotting and ELISA inhibition experiments with patients' sera more conclusions on the nature of the present IgE epitopes of natural and recombinant Art v 1 could be drawn. Taken together the results of this study show a high impact of glycosylation on the allergenicity of the major mugwort pollen allergen Art v 1.

**1038** A Major New Allergen From Ragweed Pollen

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Ragweed pollen has a lipid layer on the surface, which has been extracted and routinely discarded for more than 50 years in order to produce allergy test preparations. The symptoms in pollen allergy, that appear after a few minutes, are believed to be due to allergens located on the pollen surface, which includes the lipid layer. As it has been demonstrated with defatted ragweed pollen (Marsh DG et al JACI 1981, 67: 206-222), there are important extracellular allergens released in a short time period - e.g. Amb a 5 in 16 minutes, versus the major allergens described, Amb a 1 and 2, in 12-24 hours. However, these authors and others have not reported significant differences in the first-released allergens from the complete and defatted preparations. In our work, we show a difference in the population of the first-released allergens from complete and defatted pollen. We have identified and characterized an allergen located in the lipid fraction that is discarded during the defatting process. The allergen, which appears to be a major pollen glycoprotein, has a molecular mass of 30 kDa and contains at least one disulfide bond. Amino acid sequencing data indicate that the protein has not been previously described from pollen or other sources. Finally, after performing IgE-immunoblots with 25 sera of ragweed-sensitive patients, we have found that the 30 kDa protein is recognized by all of them, thus qualifying it as a major allergen that is perhaps missed in current screens. Furthermore, our results are reinforced by the fact that dogs sensitized to ragweed also uniformly recognize the allergen. These findings suggest that the lipid fraction containing the 30 kDa allergen and possibly others should be included in allergy testing and immunotherapy regimens.

**1039** Seasonal Variation in the Indoor Mold Aerospora Among Inner-city Homes

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**INTRODUCTION:** Sensitization to the indoor mold aerospora may play a significant role in the increasing prevalence of asthma among inner-city dwelling children and adults. To evaluate indoor mold contamination, we have used volumetric spore sampling for both total and viable spores in 40 homes in the East St. Louis, IL (ESL) area.

**METHODS:** At least one asthmatic patient (usually 2 or more) resided in each of the homes selected. Sampling was carried out throughout the year using a Burkard Personal Volumetric spore trap and viable spore trap. Viable spores were collected onto MPA plates. The kitchen, TV room and

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